

EXHIBIT C

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

VICTIM RIGHTS LAW CENTER

115 Broad Street, 3rd Floor
Boston, MA 02110,

EQUAL RIGHTS ADVOCATES

1170 Market Street, Suite 700
San Francisco, CA 94102,

LEGAL VOICE

907 Pine Street, Suite 500
Seattle, WA 98101

**CHICAGO ALLIANCE AGAINST
SEXUAL EXPLOITATION**

307 N. Michigan Ave., Suite 1818
Chicago, IL 60601

JANE DOE, an individual by and through her
mother and next friend, **MELISSA WHITE**

NANCY DOE, an individual

MARY DOE, an individual

Plaintiffs,

vs.

ELISABETH D. DEVOS, in her official
capacity as Secretary of Education, 400
Maryland Avenue SW Washington, DE 20202;

KIMBERLY RICHEY, in her official
capacity as Acting Assistant Secretary for Civil
Rights, 400 Maryland Avenue SW
Washington, DC 20202,

U.S. DEPARTMENT OF EDUCATION,
400 Maryland Avenue SW Washington, DC
20202,

Defendants.

Case No.: 1:20-cv-11104

DECLARATION OF JANE DOE

1
2 I, MELISSA WHITE, declare that I am over the age of 18 and competent to testify to the
3 following facts regarding my minor daughter, JANE DOE:

4 **Sexually Assaulted by Another Student**

5 1. My daughter, Jane Doe, is a ten-year-old female student in Pinckney Community
6 Schools in Livingston County, Michigan.

7 2. Jane Doe was sexually harassed and assaulted by a fellow classmate in January
8 and February 2020. At the time, Jane Doe was in fourth grade.

9 3. On four separate occasions over the course of five weeks, Jane Doe's harasser
10 held Jane Doe's hands so she could not pull away, grabbed her vagina, and asked if she liked it.
11 It is my understanding that Jane Doe's harasser has done this to two other girls at the school.

12 **Reporting the Misconduct to the School**

13 4. Jane Doe reported the sexual assault to the school office the first three times it
14 happened and the school did nothing in response. After the fourth time, Jane Doe told her
15 teacher and asked if she could call me to help her. The teacher told Jane Doe she was not
16 allowed to call me because it was not "important enough."

17 5. Jane Doe told me about each incident. After the first time, I went to the school
18 to talk to the Principal. I was sent to the Assistant Principal who told me she had no knowledge
19 of the incident.

20 6. The same day I met with the Assistant Principal, I made a formal report with the
21 police department.

22 7. The police officer went to the school and the Principal informed the officer that
23 they were just "kids playing tag" and that it "got out of hand." This was not true and Jane Doe
24 became very upset when she heard this characterization of the incident.

25 8. After the second and third incidents, I called the school each time. The school
26 informed me they would look into the incidents but they did nothing.
27
28

1 9. Immediately following the fourth incident, I went to the school with the parents
2 of one of the other girls who was being harassed by the same boy and we met with the Principal.
3 The Principal dismissed our concerns and, after the meeting, the other parents and I called the
4 police to make another police report.

5 10. After the fourth incident, the school initiated several interim measures. The
6 school changed the harasser's lunch period and his class schedule. However, these measures
7 were not enforced by substitute teachers and Jane Doe continued to see her harasser in the halls
8 and at recess (where the third and fourth incidents took place).

9 11. Additionally, Jane Doe's harasser was permitted to attend a class field trip, over
10 my objection. The school informed me they would keep him away from Jane Doe. However,
11 Jane Doe informed me that during the field trip, her harasser had been allowed to ride the bus
12 and sit behind her in the auditorium. She did not say anything to her teacher about him being
13 behind her in the bus. I asked her why she did not say anything, and she responded with, "it's
14 not like she would do anything anyways." I asked her how the show was and she said she was
15 too distracted with her harasser being close to her that she missed most of it.

16 12. I followed-up with the school to ask why Jane Doe's harasser was permitted to
17 attend the field trip and sit near Jane Doe on the bus. The school informed me that he was
18 allowed to attend because it was an educational opportunity.

19 13. On or around February 21, 2020, I went to the school board meeting and told the
20 school board about the sexual harassment Jane Doe was experiencing. None of the school
21 board members responded to my concerns and I never received any follow-up communication.

22 14. In February 2020, I was asked to bring Jane Doe to a meeting at a local domestic
23 violence and sexual assault center for a forensic interview with the police.

24 15. I learned the police were also interviewing another girl who was being harassed
25 by the same student. Her parents informed me that a school social worker and the assistant
26 superintendent attended their daughter's interview. I could not understand why the school did
27 not send representatives to Jane Doe's interview.
28

1 16. The school has not contacted me about initiating a Title IX investigation
2 regarding Jane Doe's sexual harassment and assault.

3 17. I believe there may be an ongoing Title IX investigation related to the
4 harassment suffered by the other student, but I do not know the status of that investigation.

5 18. To date, I have not received any communications from the school about a Title
6 IX investigation, the status of the investigation, or whether any disciplinary or remedial
7 measures will occur. The last time the school communicated with me regarding Jane Doe's
8 sexual assault and harassment was in March.

9 **The Effect of this Experience on Jane Doe's Access to Education**

10 19. Since the sexual harassment and assault began, Jane Doe has become withdrawn
11 from school. She is no longer the early riser, eager to go to school. Now, she refuses to go and
12 is upset when she arrives home. Her grades and coursework have suffered due to her lack of
13 interest in school.

14 20. Jane Doe would cry herself to sleep because her classmates constantly asked her
15 questions about her harasser's conduct.

16 21. Jane Doe has lost all faith in her school's ability to protect her. She no longer
17 feels safe at school and no longer trusts those in positions of authority. She has had her
18 innocence stolen and has lost the opportunity to be a child.

19 22. I have enrolled Jane Doe in weekly counseling that I pay for with insurance to
20 help her deal with the trauma of her repeated sexual assaults as well as the failure of her school
21 to take appropriate action. I am concerned about the long-lasting affect this will have on Jane
22 Doe.

23 23. Because Jane Doe no longer wants to attend her school, I have been searching
24 for alternatives, but we live in a rural part of Michigan and we do not have many options. My
25 resources are limited and I am worried that I have no choice but to keep my daughter in the
26 school where she was assaulted.

27 **The Effect of the Final Rule**

24. I am concerned about the impact the Final Rule will have on girls like Jane Doe. Under the Final Rule, it is not clear the repeated sexual harassment my daughter experienced would be considered “so serious, pervasive, and objectively offensive that it effectively denied a person equal access” as required to pursue a Title IX complaint.

25. By lowering the threshold for schools by adopting the deliberate indifference standard, which allows schools to act unreasonably, and by narrowing the types of sexual harassment that schools are allowed to respond to, I am very concerned about the impact the Final Rule will have on Jane Doe. Specifically, I am worried that under the Final Rule, her school will be emboldened to refuse further action to address effectively the sexual harassment and assault against her.

26. I am concerned the school will not be required to provide the supportive measures Jane Doe needs in order to learn in safe educational environment because such measures may be considered “punitive,” or “unreasonably burdensome” to the student who has been harassing her.

27. If the Final Rule is implemented, I am worried the school will continue to deny Jane Doe the protection and care she needs. The Final Rule will give the school license to further alienate my daughter and brush everything under the rug.

28. I am considering filing a complaint against the school with the Office for Civil Rights with the U.S. Department of Education, but I fear that under the Final Rule, the Department will conclude that the school’s response did not violate Title IX.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October __oz, 2020, in Michigan.

M. White

MELISSA WHITE, on behalf of JANE
DOE